

ORDINANCE NO. \_\_\_\_\_

1           AN ORDINANCE amending Title 5 of the Lincoln Municipal Code relating to  
2 Licenses and Regulations by amending Sections 5.41.010, 5.41.020, 5.41.030, 5.41.050, 5.41.060,  
3 5.41.070, 5.41.160, and 5.41.170 to delete provisions relating to salvaging and recycling operations  
4 and thereby making Chapter 5.41, currently entitled Salvaging, Recycling and Composting  
5 Operations, apply only to recycling and composting operations and recyclables drop off locations,  
6 and repealing Sections 5.41.110, 5.41.120, and 5.41.130 from Chapter 5.41 to relocate the provisions  
7 of those sections and to add new sections containing additional provisions in a new Chapter 5.43  
8 entitled Salvage Dealers and Salvage Collectors to establish provisions dealing only with salvaging  
9 and recycling operations; and repealing Sections 5.41.010, 5.41.020, 5.41.030, 5.41.050, 5.41.060,  
10 5.41.070, 5.41.160, and 5.41.170 of the Lincoln Municipal Code as hitherto existing.

11           BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:  
12           Section 1. That Section 5.41.010 of the Lincoln Municipal Code be amended to read  
13 as follows:

14   **5.41.010       General Definitions.**

15           The following words as used in this chapter shall have the following meanings:  
16           **BIODEGRADABLE** shall mean material capable of decomposing or deteriorating to simple  
17 gasses, organic compounds or other harmless components after exposure to natural elements for not  
18 more than one year.

19           ~~**COMMERCIAL COMPOSTING OPERATION** shall mean any premises that is~~  
20 ~~maintained, used, or operated wholly or partially for accepting, receiving or otherwise utilizing~~  
21 ~~organic materials that originated or are derived off the premises for composting on the premises.~~  
22 ~~Commercial composting operation includes any profit or not for profit operation that collects or~~  
23 ~~accepts organic materials from a premises other than the premises where the composting occurs.~~

1           **COMPOSTING** shall mean the controlled aerobic, thermophilic, microbial degradation of  
2 organic material to a stabilized, humus-like material. Composting shall not include land application  
3 of organic material that is worked into the soil.

4           **CONSUMER RECYCLABLES** shall mean:

5                   (1) Containers capable of holding six gallons or less made of glass, aluminum,  
6 plastic or tin;

7                   (2) Newspapers and other office or household waste paper; and

8                   (3) Other recyclables designated in writing, approved by the Director, and on file  
9 at the Health Department.

10           **DIRECTOR** shall mean the Health Director of the Lincoln-Lancaster County Health  
11 Department or an authorized representative of the same.

12           ~~**DWELLING UNIT** shall mean any building or portion thereof that is designed and used  
13 for residential purposes.~~

14           ~~**NON-OPERATING** shall mean the object cannot be immediately moved or used for its  
15 designed purpose, without alteration or repair.~~

16           **OPERATOR** shall mean any person engaged in the activities of owning or operating any  
17 of the following operations as defined herein: salvage, recycling processing center, recycling center,  
18 recyclables drop-off, or commercial composting.

19           **ORGANIC MATERIALS** shall mean any biodegradable: lawn clippings and leaves; raw  
20 sewage or treated sewage sludge; animal or paunch manure; any other plant or food residue; or a  
21 mixture of any of the above.

22           **PREMISES** shall mean a tract of land used for any operation or activity regulated under this  
23 chapter consisting of one platted lot or irregular tract or more than one platted lot or irregular tract,  
24 provided such lots or tracts are under common ownership and contiguous.

25           ~~**RECYCLABLES** shall mean the following materials that, for the purpose of recycling, are  
26 separated or otherwise diverted from waste destined for disposal: wood, paper, glass, plastics,~~

1 ~~metals, automobile oil, tires, and batteries. Refuse derived fuels or other materials that are destroyed~~  
2 ~~by incineration are not recyclables. Salvage material as defined herein is not a recyclable.~~

3 **RECYCLABLES DROP-OFF OPERATION** shall mean any premises that is maintained,  
4 used, or operated wholly or partially for collecting any consumer recyclables that originated off the  
5 premises where the recycling occurs; provided that there is no mechanical equipment for separating  
6 or modifying recyclable materials used or stored on the premises. Recyclables drop-off operation  
7 shall not include:

8 ~~—————(1) — Any business or operation accepting consumer recyclables without charge~~  
9 ~~or payment therefor as a courtesy to its customers and as an incidental part of their ongoing business;~~

10 ~~(2) — Any properly equipped motor vehicle service station or repair shop accepting~~  
11 ~~motor vehicle waste oil or automotive batteries as an incidental part of their ongoing business.~~

12 ~~**RECYCLING** shall mean accepting, processing, storing, holding, keeping, receiving,~~  
13 ~~reusing, collecting, dealing, buying, selling, or separating recyclables. Recycling shall not include~~  
14 ~~electrical or chemical modifying; or any type of wrecking, converting or dismantling of recyclables.~~

15 ~~**RECYCLING CENTER** shall mean any premises that is maintained, used, or operated~~  
16 ~~wholly or partially for recycling any consumer recyclables that originated off the premises where~~  
17 ~~the recycling occurs.~~

18 ~~Recycling Center includes both profit and not for profit operations.~~

19 ~~**RECYCLING PROCESSING CENTER** shall mean any premises that is maintained, used,~~  
20 ~~or operated wholly or partially for recycling any recyclables that originated off the premises where~~  
21 ~~the recycling occurs. Such recycling may include mechanical equipment for separating or modifying~~  
22 ~~recyclable materials. Such modifying shall be limited to cutting, crushing, breaking, baling, and~~  
23 ~~shredding.~~

24 ~~Recycling Processing Center includes both profit and not for profit operations.~~

25 ~~**SALVAGE MATERIAL** shall include:~~

1           ~~(1) Dismantled, non-operating or wrecked automobiles, trucks, trailers,~~  
2 ~~equipment, machinery, mobile homes, tractors, or farm machinery, appliances, other vehicles or~~  
3 ~~parts thereof; or~~

4           ~~(2) Scrap metals including iron, steel, and any other metallic materials except~~  
5 ~~recyclables as defined herein;~~

6           ~~**SALVAGE OPERATION** shall mean any premises that is maintained, used, or~~  
7 ~~operated wholly or partially for storing, holding, keeping, receiving, reusing, wrecking, dismantling,~~  
8 ~~recycling, collecting, dealing, buying, or selling salvage material.~~

9           ~~Salvage operation may include any activities of a Recycling Processing Center~~  
10 ~~Operation as defined herein and may store, hold, keep, receive, reuse, wreck, dismantle, recycle,~~  
11 ~~collect, deal, buy, or sell recyclables. Such activities shall be subject to all operating requirements~~  
12 ~~applicable to salvage operations.~~

13           ~~Salvage operation shall not include premises where used parts are sold but no~~  
14 ~~wrecking or dismantling occurs.~~

15           Section 2. That Section 5.41.020 of the Lincoln Municipal Code be amended to read  
16 as follows:

17 **5.41.020     Permit Required; Penalty.**

18           It shall be unlawful for any person to engage in, carry on, conduct, operate, or maintain a  
19 ~~salvage operation, recycling processing center operation, recycling center operation, recyclables~~  
20 ~~drop-off operation/ or commercial composting operation within the city, or three miles thereof,~~  
21 without first having obtained a written permit from the Director for such activities. Any person who  
22 shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon  
23 conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed  
24 six months or by a fine of not less than \$150.00 nor more than \$500.00 recoverable with costs, or  
25 both such fine and imprisonment.

26           Section 3. That Section 5.41.030 of the Lincoln Municipal Code be amended to read  
27 as follows:

1 **5.41.030 Permit; Application, Investigation.**

2 (a) Any person may apply for a permit to operate or maintain a ~~salvage operation,~~  
3 ~~recycling processing center operation, recycling center operation,~~ recyclables drop-off operation/  
4 or commercial composting operation within the city, or three miles thereof, by submitting the  
5 application information requirements together with the related permit fee and occupation tax, if any,  
6 to the Director.

7 (b) The Director shall review such application information and upon payment of the  
8 related permit fee and occupation tax, if any, shall issue such permit within a reasonable time not  
9 to exceed sixty days if such operation is or will be in compliance with all requirements of this  
10 chapter and all other applicable city ordinances and regulations.

11 (c) Investigations shall be made by the necessary city departments to determine whether  
12 any such operation will be in compliance with all requirements of this chapter and all other  
13 applicable city ordinances and regulations.

14 Section 4. That Section 5.41.050 of the Lincoln Municipal Code be amended to read  
15 as follows:

16 **5.41.050 Permit; Fee.**

17 (a) Each operator shall pay to the Director a permit fee with each permit application as  
18 follows:

19	(1) <del>Salvage Operations</del>	<del>\$20.00</del>
20	(2) <del>Recycling Processing Center Operations</del>	<del>\$10.00</del>
21	(3) <del>Recycling Center Operations</del>	<del>\$10.00</del>
22	(4) Recyclables Drop-off Operations	No Charge
23	(5) Commercial Composting Operations	\$20.00

24 (b) Such permit fees are non-refundable.

25 Section 5. That Section 5.41.060 of the Lincoln Municipal Code be amended to read  
26 as follows:

1     **5.41.060       Occupation Tax.**

2             There is hereby levied upon the business of every person engaged in the business of  
3     operating or conducting ~~any salvage operation or a~~ commercial composting operation an occupation  
4     tax of \$125.00 per year. The City Treasurer shall place forty percent of such tax receipts in the  
5     General Fund for Building and Safety purposes and the remainder in the Health Department Fund.  
6     The year for which such occupation tax is levied shall commence on the first day of August and  
7     shall end on the thirty-first day of July next succeeding, and such occupation tax shall not be  
8     prorated, ~~except for the year expiring July 31, 1994, the tax for the remaining portion of said year~~  
9     ~~shall be \$75.00.~~

10            Section 6. That Section 5.41.070 of the Lincoln Municipal Code be amended to read  
11     as follows:

12     **5.41.070       Occupation Tax Payment; Late Fee; Penalty.**

13            It is hereby made the duty of every person engaged in the business of operating or  
14     conducting ~~any salvage operation or a~~ commercial composting operation to pay the City Treasurer  
15     the above occupation tax as follows: All applicants for new or renewal permits shall pay such  
16     occupation tax at the time of application or renewal. If the tax remains unpaid after expiration of  
17     any permit required for the continuing operation of such business, such business shall pay a late fee  
18     of \$50.00 and all overdue payments shall accrue interest at a rate of one percent per month. If the  
19     tax remains unpaid for ninety days or more after expiration of any permit required for the continuing  
20     operation of such business, such business shall pay a penalty of five percent in addition to any late  
21     fee and interest charges.

22            Section 7. That Section 5.41.110 of the Lincoln Municipal Code be and the same is  
23     hereby repealed.

24     ~~**5.41.110       General Operating Requirements.**~~

25     ~~— The operator of any operation requiring a permit under this chapter shall:~~

26     ~~— (a) Plainly display on the premises the permit issued pursuant to this chapter.~~

27     ~~— (b) Maintain the premises in a safe and sanitary condition at all times, including taking~~  
28     ~~prompt action to eliminate any nuisance conditions.~~

- 1 ~~—— (c) — Arrange material so as to permit easy access to all such material for fire fighting~~  
2 ~~purposes.~~
- 3 ~~—— (d) — Where outside storage of material is permitted, keep any such materials within a~~  
4 ~~suitable fence. (Such fence shall be designed and maintained to prevent unauthorized entry).~~
- 5 ~~—— (e) — Remove from the premises, at reasonable times, all material other than salvage~~  
6 ~~material or recyclables.~~
- 7 ~~—— (f) — Store all flammable material properly to reduce fire hazards.~~
- 8 ~~—— (g) — Where applicable, remove and collect, within ninety days after arrival at the~~  
9 ~~permitted premises or prior to crushing or other salvage processing, whichever is earlier, all gasoline~~  
10 ~~and batteries from any material containing the same.~~
- 11 ~~—— (h) — Where applicable, remove any chlorinated fluorocarbons from any materials~~  
12 ~~containing the same: within ninety days after arrival at the permitted premises, prior to processing~~  
13 ~~of the item for salvage, or prior to sale or removal from the permitted premises, whichever occurs~~  
14 ~~first; provided the same may be removed for remote processing of chlorinated fluoro carbons.~~
- 15 ~~—— (i) — Where applicable and whenever possible, remove and collect oil, lubricants, batteries,~~  
16 ~~gasoline and chlorinated fluorocarbons in such manner as to promote recycling or reuse of said~~  
17 ~~materials.~~
- 18 ~~—— (j) — Where applicable, drain all oil and grease from motor vehicles being dismantled on~~  
19 ~~the premises into a receptacle capable of holding same.~~
- 20 ~~—— (k) — Where applicable, prevent the discharge of flammable or combustible liquids or any~~  
21 ~~waste liquid containing crude petroleum or its products into or upon any street, highway, drainage~~  
22 ~~canal, or ditch, storm drain, sewer or flood control channel, lake or tidal waterway, or upon the~~  
23 ~~ground.~~
- 24 ~~—— (l) — Where applicable, properly and promptly clean any accidental spills of petroleum~~  
25 ~~products, solvents or any other hazardous or potentially hazardous substance.~~
- 26 ~~—— (m) — Comply with all applicable local, state, and federal laws, ordinances, rules, and~~  
27 ~~regulations.~~

28           Section 8. That Section 5.41.120 of the Lincoln Municipal Code be and the same is  
29 hereby repealed.

30 ~~**5.41.120 — Recycling Processing Center; Operating Requirements.**~~

- 31 ~~—— (a) — The operator of any recycling processing center shall:~~
- 32 ~~—— (1) — Conduct any cutting, crushing, breaking, baling, and shredding only within~~  
33 ~~an enclosed structure on the premises. Such structure shall comply with all applicable fire, building,~~  
34 ~~safety and health codes.~~
- 35 ~~—— (2) — Clearly designate any voluntary drop-off site area on the premises:~~
- 36 ~~—— (3) — Store recyclables, including any use of the designated voluntary drop-off site~~  
37 ~~area on the premises for storage only within covered containers or under covers.~~
- 38 ~~—— (b) — The operator of any recycling processing center shall not cause or permit the~~  
39 ~~following:~~
- 40 ~~—— (1) — Any mechanical, chemical, or electrical processing that changes the shape or~~  
41 ~~appearance of the recyclables on the permitted premises other than cutting, crushing, breaking,~~  
42 ~~baling, and shredding.~~

1 ~~\_\_\_\_\_ (2) Any handling, receiving or processing of hazardous materials as defined by~~  
2 ~~state or federal law, without the appropriate permit or approval under such laws.~~

3 Section 9. That Section 5.41.130 of the Lincoln Municipal Code be and the same is  
4 hereby repealed.

5 ~~**5.41.130 Recycling Center; Operating Requirements.**~~

- 6 ~~(a) The operator of any recycling center shall:~~  
7 ~~(1) Accept only consumer recyclables as defined in this chapter.~~  
8 ~~(2) Conduct any recycling within an enclosed structure on the premises. Such~~  
9 ~~structure shall comply with all applicable fire, building, safety and health codes.~~  
10 ~~(3) Clearly designate any voluntary drop-off site area on the premises.~~  
11 ~~(4) Store recyclables, including any use of the designated voluntary drop-off site~~  
12 ~~area on the premises for storage only within covered containers or under covers.~~  
13 ~~(b) The operator of any recycling center shall not cause or permit the following:~~  
14 ~~(1) Any mechanical, chemical or processing that changes the shape or appearance~~  
15 ~~of the recyclables on the permitted premises.~~  
16 ~~(2) Any handling, receiving or processing of hazardous materials as defined by~~  
17 ~~state or federal law, without the appropriate permit or approval under such laws and the written~~  
18 ~~approval of the Director.~~

19 Section 10. That Section 5.41.070 of the Lincoln Municipal Code be amended to  
20 read as follows:

21 **5.41.160 Inspections.**

22 All ~~salvage and~~ commercial composting operations permitted under this Chapter shall be  
23 inspected at least once a year by the Lincoln-Lancaster County Health Department and the Lincoln  
24 Department of Building and Safety for compliance with this chapter and all other applicable  
25 provisions of law. The Director and the Director of Building and Safety shall inspect all permitted  
26 operations for compliance with this chapter and all other applicable provisions of law as they shall  
27 deem appropriate under the general supervision of the Mayor.

28 Section 11. That Section 5.41.070 of the Lincoln Municipal Code be amended to  
29 read as follows:

1 **5.41.170 Nuisance Conditions.**

2 (a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises within  
3 the city, or within three miles of the corporate limits thereof, to conduct any ~~recycling~~, composting,  
4 ~~salvage operation, salvage yard, scrap processing~~, or recyclables drop-off in a safe and sanitary  
5 manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health,  
6 safety and welfare.

7 (b) If the Director finds that conditions exist that are a detriment to the public health,  
8 safety, or welfare, or are otherwise a public nuisance, the Director shall abate the same as a public  
9 nuisance as provided in §8.26.030.

10 (c) Conditions detrimental to the public health, safety, and welfare related to recycling,  
11 composting, salvage operation, salvage yard, scrap processing, or recyclables drop-off operations  
12 shall include the failure to:

13 (1) Prevent or remove standing water likely to become a breeding place for  
14 mosquitoes.

15 (2) Keep weeds and vegetation on the premises, other than trees, shrubs, and  
16 vines, trimmed to a height of not more than six inches.

17 (3) Remove or keep from the premises any materials liable to give off a foul odor  
18 or attract vermin.

19 (4) Prevent recyclables, organic materials or other material from resting upon or  
20 protruding over any public street, walkway, or other public property.

21 (5) Prevent recyclables, organic material or other material from scattering or  
22 blowing off the premises.

1 (6) Prevent or remove any conditions that are conducive to the existence and  
2 breeding of rodents or insects.

3 (7) Take reasonable measures to prevent the access of animals including dogs,  
4 cats, skunks, opossums, or raccoons to the area related to the activity.

5 Section 12. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
6 section numbered 5.43.010 to read as follows:

7 **5.43.010 Statement of Intent.**

8 Salvage dealers and salvage collectors constitute prime vehicles for the disposal and sale of  
9 stolen property within this City. The purpose of this Chapter is to regulate the activities of such  
10 enterprises for the purpose of facilitating law enforcement's apprehension of criminals and recovery  
11 of stolen property and to curtail the trafficking of stolen property.

12 Section 13. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
13 section numbered 5.43.020 to read as follows:

14 **5.43.020 Definitions.**

15 The following words as used in this chapter shall have the following meanings:

16 CITY shall mean the City of Lincoln, Nebraska.

17 DIRECTOR shall mean the Health Director of the Lincoln-Lancaster County Health  
18 Department or an authorized representative of the same.

19 RECYCLABLES shall mean any wood, paper, glass, plastics, automobile oil, tires, and  
20 aluminum cans.

21 SALVAGE COLLECTOR shall mean a person not having a fixed place of business in the  
22 City who goes from house to house and from place to place, both for profit and for non profit,  
23 gathering, collecting, buying, selling or otherwise dealing in any recyclables or salvage material  
24 Salvage collector shall not include any Recyclables Drop-Off Operations as defined in § 5.41.010.

25 SALVAGE DEALER shall mean a person, firm, association or corporation, having a fixed  
26 place of business within the City and engaged in conducting, managing or carrying on the business,

1 both for profit and for non profit, of buying, selling or otherwise dealing in, either at wholesale or  
2 retail, any recyclables or salvage material. Salvage dealer shall not include any Recyclables  
3 Drop-Off Operations as defined in § 5.41.010.

4 **SALVAGE MATERIAL** shall mean automobiles, trucks, trailers, mobile homes, tractors,  
5 farm machinery, other vehicles, equipment or machinery, appliances, or batteries, or any parts  
6 therefrom; regardless of operating condition. Additionally salvage material includes scrap metals  
7 including, but not limited to, iron, steel, copper, lead, aluminum, and any other metallic materials,  
8 in any form whatsoever, with the exception of aluminum cans.

9 Section 14. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
10 section numbered 5.43.030 to read as follows:

11 **5.43.030 Permit Required.**

12 No person shall engage in, carry on, or operate as a salvage dealer or salvage collector within  
13 the city, or three miles thereof, without first having obtained a written permit from the Director for  
14 such activities.

15 Section 15. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
16 section numbered 5.43.040 to read as follows:

17 **5.43.040 Permit; Application, Investigation.**

18 (a) Any person may apply for a permit to engage in, carry on, or operate as a salvage  
19 dealer or salvage collector within the city, or three miles thereof, by submitting the application  
20 information requirements together with the related permit fee and occupation tax to the Director, for  
21 his review.

22 (b) If such operation is or will be in compliance with all the requirements of this chapter  
23 and all other applicable city ordinances and regulations and if the permit fee and occupation tax are  
24 paid, the Director shall issue such permit within a reasonable time, not to exceed sixty days.

25 (c) Investigations shall be made by the necessary city departments to determine whether  
26 any such operation will be in compliance with all requirements of this chapter and all other  
27 applicable city ordinances and regulations.

1           Section 16. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
2 section numbered 5.43.050 to read as follows:

3 **5.43.050       Application Information Requirements.**

4           (a)   The applicant shall complete the forms provided by the Director, supplying at a  
5 minimum, the following information:

6                   (1)   The name and address of the applicant;

7                   (2)   The exact location of the premises;

8                   (3)   The exact nature of the activities related to the permit;

9                   (4)   The location and dimensions of any buildings on the premises, including any  
10 building to be used, in whole or in part, in the permitted activities; and

11                   (5)   Such other pertinent information as requested on such forms.

12           (b)   For existing permit holders, application information shall be included on forms for  
13 renewal provided by the Director to verify and update such information.

14           Section 17. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
15 section numbered 5.43.060 to read as follows:

16 **5.43.060       Permit; Fee.**

17           Each applicant shall pay to the Director a non-refundable permit fee of \$20.00 with each  
18 permit application.

19           Section 18. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
20 section numbered 5.43.070 to read as follows:

21 **5.43.070       Occupation Tax.**

22           There is hereby levied upon every salvage collector and salvage dealer an occupation tax of  
23 \$125.00 per year. The City Treasurer shall place forty percent of such tax receipts in the General  
24 Fund for Building and Safety purposes and the remainder in the Health Department Fund. The year  
25 for which such occupation tax is levied shall commence on the first day of August and shall end on  
26 the thirty-first day of July next succeeding, and such occupation tax shall not be prorated.

1           Section 19. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
2 section numbered 5.43.080 to read as follows:

3   **5.43.080       Occupation Tax Payment; Late Fee; Penalty.**

4           Every salvage collector and salvage dealer shall pay the City Treasurer the above occupation  
5 tax as follows: All applicants for new or renewal permits shall pay such occupation tax at the time  
6 of application or renewal. If the tax remains unpaid after expiration of any permit required for the  
7 continuing operation of such business, such business shall pay a late fee of \$50.00 and all overdue  
8 payments shall accrue interest at a rate of one percent per month. If the tax remains unpaid for  
9 ninety days or more after expiration of any permit required for the continuing operation of such  
10 business, such business shall pay a penalty of five percent in addition to any late fee and interest  
11 charges.

12           Section 20. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
13 section numbered 5.43.090 to read as follows:

14   **5.43.090       Permit; Expiration.**

15           All permits granted under this chapter shall expire on the thirty-first day of July following  
16 the date of issuance.

17           Section 21. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
18 section numbered 5.43.100 to read as follows:

19   **5.43.100       Permit; Revocation and Suspension.**

20           (a)   The Director shall revoke or suspend any permit granted under this chapter if the  
21 Director determines:

22                   (1)   The permittee has failed to comply with this chapter or any provision of law  
23 applicable to the premises, equipment, or operation of the permitted operation; or

24                   (2)   The permittee has obtained his permit through any fraud or misstatement; or

25                   (3)   The permitted operation is being conducted in a manner detrimental to the  
26 health, safety, or general welfare of the public, or is a nuisance, or is being operated in any unlawful  
27 manner; or

1           (4)    The permitted operation is no longer being operated by the permittee.

2           (b)    Such suspension or revocation shall state in writing the reasons for the same and shall  
3 notify the permittee of the opportunity for hearing provided in § 5.43.110.

4           (c)    Such suspension or revocation may be delivered in person or by mail to the address  
5 provided in the application or by any other suitable and effective means.

6           (d)    No suspension or revocation shall be effective until after the ten- day period provided  
7 for appeal. If an appeal is filed it shall operate as a stay to such suspension or revocation.

8           (e)    Nothing in this section shall limit the authority of the Director to take any legal  
9 measure to abate any hazard or immediate threat to the public health.

10           Section 22. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
11 section numbered 5.43.110 to read as follows:

12   **5.43.110        Permit; Hearing.**

13           (a)    Any person aggrieved by the Director granting, denying, renewing, or revoking a  
14 permit for a proposed or existing operation subject to the provisions of this chapter, may file a  
15 written request for a hearing before the Director within ten days after such action.

16           (b)    The Director shall give notice of a public hearing upon this request to be held within  
17 thirty days after service on the person requesting the hearing. The Director may also give notice of  
18 the hearing to other interested persons.

19           (c)    At such hearing, the Director shall determine whether the granting, denial, renewal,  
20 or revocation of the permit was in accordance with the provisions of this chapter and shall issue  
21 written findings of fact, conclusions of law, and a written order. These findings of fact, conclusions  
22 of law, and order shall be filed by the Director and served upon all parties appearing or represented  
23 at said hearing.

24           Section 23. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
25 section numbered 5.43.120 to read as follows:

26   **5.43.120        Operating Requirements.**

27           All salvage dealers and salvage collectors shall:

1           (1)   Plainly display on the premises the permit issued pursuant to this chapter.

2           (2)   Arrange material so as to permit easy access to all such material for fire  
3 fighting purposes.

4           (3)   Store salvage materials within a fence designed and maintained to prevent  
5 unauthorized entry.

6           (4)   Store recyclables, within covered containers or under covers.

7           (5)   Store all flammable material properly to reduce fire hazards.

8           (6)   Not cause or permit any mechanical, chemical, or electrical processing that  
9 changes the shape or appearance of the recyclables on the permitted premises other than cutting,  
10 crushing, breaking, baling, and shredding; which shall be done within an enclosed structure on the  
11 premises. Such structure shall comply with all applicable fire, building, safety and health codes.

12           (7)   Comply with all applicable local, state, and federal laws, ordinances, rules,  
13 and regulations.

14           Section 24. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
15 section numbered 5.43.130 to read as follows:

16   **5.43.130    Hazardous or Potentially Hazardous Materials.**

17           (a)   No salvage dealer or salvage collector shall handle, receive or process hazardous  
18 materials as defined by state or federal law, without the appropriate permit or approval under such  
19 laws.

20           (b)   All gasoline, batteries, oil, grease, and chlorinated fluorocarbons shall be removed  
21 and collected from any material containing the same, within ninety days after arrival at the permitted  
22 premises or prior to salvage processing, whichever is earlier. These materials shall be collected into  
23 a receptacle capable of holding the same and shall not be discharged into or upon any street,  
24 highway, drainage canal, ditch, storm drain, sewer, flood control channel, lake, tidal waterway, or  
25 upon the ground. All accidental spills of any of these materials shall be properly and promptly  
26 cleaned.

1           Section 25. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
2 section numbered 5.43.140 to read as follows:

3 **5.43.140       Daily Report, Salvage Dealer.**

4           (a)     It shall be the duty of every salvage dealer to make out every day a report of all  
5 salvage material received, deposited, purchased, or taken in trade, during the preceding day. Every  
6 such report shall be maintained and kept on the salvage dealer's premises and shall be open at all  
7 times during business hours to the inspection of any law enforcement officer. The daily report shall  
8 be preserved for a period of three years.

9           (b)     Such report shall show clear, legibly, and in English the following information:

10           (1)     The date and hour of the day when each article was received;

11           (2)     The true name, address, and birthday of the customer(s), verified by any  
12 Operator's License or Identification Card issued by any State or by the United States;

13           (3)     The type and issuing number of the identification used in subsection (b)  
14 above;

15           (4)     A fingerprint taken from the customer's right index finger; if the right index  
16 finger is missing, the fingerprint shall be taken from the left index finger of the customer(s);

17           (5)     The signature of the customer(s);

18           (6)     The amount paid to the customer(s), if any;

19           (7)     The license plate number and/or make, model, and year of the vehicle(s)  
20 used to transport the material to the salvage dealer, if any;

21           (8)     The complete description of each article(s) received including all  
22 distinguishing marks thereof;

23           (9)     The identification and signature of the individual who handled the transaction  
24 on behalf of the salvage dealer.

25           Section 26. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
26 section numbered 5.43.150 to read as follows:

1 **5.43.150 Daily Report, Salvage Collector.**

2 (a) It shall be the duty of every salvage collector to make out every day a report of all  
3 salvage material received, deposited, purchased, or taken in trade, during the preceding day. Every  
4 such report shall be maintained and kept on the salvage collector's premises and shall be open at all  
5 times during business hours to the inspection of any law enforcement officer. The daily report shall  
6 be preserved for a period of three years.

7 (b) Such report shall show clear, legibly, and in English the following information:

8 (1) The date and hour of the day when each article was received;

9 (2) The true name, address, and birthday of the customer(s), verified by any  
10 Operator's License or Identification Card issued by any State or by the United States;

11 (3) The type and issuing number of the identification used in subsection (b)  
12 above;

13 (4) A fingerprint taken from the customer's right index finger; if the right index  
14 finger is missing, the fingerprint shall be taken from the left index finger of the customer(s);

15 (5) The signature of the customer(s);

16 (6) The amount paid to the customer(s), if any;

17 (7) The complete description of each article(s) received including all  
18 distinguishing marks thereof;

19 (8) The identification and signature of the individual who handled the transaction  
20 on behalf of the salvage collector.

21 Section 27. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
22 section numbered 5.43.160 to read as follows:

23 **5.43.160 Inspections.**

24 All salvage dealers and salvage collectors shall maintain their premises open for inspection  
25 by the Lincoln-Lancaster County Health Department, the Lincoln Police Department, and the  
26 Lincoln Department of Building and Safety for compliance with this chapter and all other applicable  
27 provisions of law.

1 Section 28. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
2 section numbered 5.43.170 to read as follows:

3 **5.43.170 Nuisances.**

4 (a) It shall be the duty of every salvage and salvage collector, within the city, or within  
5 three miles of the corporate limits thereof, to maintain his premises in a safe and sanitary condition  
6 at all times, so as not to permit, keep, or maintain thereon any condition detrimental to the public  
7 health, safety and welfare.

8 (b) If the Director finds that conditions exist that are a detriment to the public health,  
9 safety, or welfare, or are otherwise a public nuisance, the Director shall abate the same as a public  
10 nuisance as provided in § 8.26.030.

11 Section 29. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
12 section numbered 5.43.180 to read as follows:

13 **5.43.180 Property Reported Not to be Sold for 14 Days.**

14 No salvage dealer or salvage collector shall deface, alter, change, destroy, part with, conceal,  
15 give away, sell or dispose of any goods, wares, merchandise or article before and until two weeks  
16 after making out the report hereinabove required.

17 Section 30. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
18 section numbered 5.43.190 to read as follows:

19 **5.43.190 Unlawful Acts.**

20 It shall be unlawful for any salvage dealer or salvage collector to do any of the following:

21 (1) Omit making an entry or making a false entry of any material matter in the  
22 record required by § 5.43.140 or § 5.43.150 ;

23 (2) Obliterate, destroy or remove from his place of business, for a period of three  
24 years, the record required by § 5.43.140 or § 5.43.150;

25 (3) Omit reporting forthwith to the Lincoln Police Department the possession of  
26 any property which he may have good cause to believe has been lost or stolen;

1           (4)     Receive any property from any person under the age of eighteen years or from  
2 any person known to be intoxicated or any known to be in violation of § 5.43.210;

3           (5)     Violate any provisions of this chapter.

4           Section 31. That Title 5 of the Lincoln Municipal Code be amended by adding a new  
5 section numbered 5.43.200 to read as follows:

6     **5.43.200     Unlawful Sale to Salvage Dealer by Person Convicted of Theft.**

7           (a)     It shall be unlawful for any person who has been convicted of any theft offense within  
8 the last five years under the provisions of the Nebraska Revised Statutes or the Lincoln Municipal  
9 Code to donate, give, sale, trade, or pawn any salvage material to a salvage dealer or salvage  
10 collector within the City of Lincoln. Convictions for the following Nebraska State Statute and  
11 Lincoln Municipal Code violations shall constitute theft offenses for the purposes of this ordinance:  
12 Violations of *Neb. Rev. Stat.* §28- 507, Burglary; *Neb. Rev. Stat.* § 28-511, Theft by unlawful taking;  
13 *Neb. Rev. Stat.* § 28-511.01, Theft by shoplifting; *Neb. Rev. Stat.* § 28-511.02, Theft of rented or  
14 leased motor vehicle; *Neb. Rev. Stat.* § 28-512, Theft by deception; *Neb. Rev. Stat.* § 28-513, Theft  
15 by Extortion; *Neb. Rev. Stat.* § 28-514, Theft of property lost, mislaid, or delivered by mistake; *Neb.*  
16 *Rev. Stat.* § 28-515, Theft of services; *Neb. Rev. Stat.* § 28-516, Unauthorized use of a propelled  
17 vehicle; *Neb. Rev. Stat.* § 28-517, Theft by receiving stolen property; Lincoln Municipal Code §  
18 9.24.120, Receiving stolen property; Lincoln Municipal Code § 9.24.130, Taking possession of  
19 property without consent of owner; Lincoln Municipal Code § 9.24.140, Larceny; Lincoln Municipal  
20 Code § 9.24.150, Shoplifting; Lincoln Municipal Code § 9.24.160, Theft of services; and Lincoln  
21 Municipal Code § 9.24.185, Unauthorized entry into motor vehicle.

22           (b)     Any person found in violation of any provision of this section shall be deemed guilty  
23 of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail  
24 for a period of not to exceed six months or by a fine of not more than \$500.00, recoverable with  
25 costs, or both such fine and imprisonment.

26           Section 32. That Title 5 be amended by adding a new section numbered 5.43.210 to  
27 read as follows:

1 **5.43.210 Penalty.**

2 (a) Any salvage dealer or salvage collector found in violation of any provision of this  
3 chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by  
4 imprisonment in the county jail for a period of not to exceed six months or by a fine of not more than  
5 \$500.00, recoverable with costs, or both such fine and imprisonment.

6 (b) Each day that a violation continues shall constitute a separate and distinct offense and  
7 shall be punishable as such.

8 (c) The penalty herein provided shall be cumulative with and in addition to the  
9 revocation, cancellation, or forfeiture of the permit provided for by this chapter.

10 Section 33. That the title of Chapter 5.41 of the Lincoln Municipal Code be amended  
11 to read "Recycling and Composting Operations."

12 Section 34. That Sections 12 through 32 of this ordinance shall be codified in the  
13 Lincoln Municipal Code as Chapter 5.43 entitled "Salvage Dealers and Salvage Collectors."

14 Section 35. That Sections 5.41.010, 5.41.020, 5.41.030, 5.41.050, 5.41.060, 5.41.070,  
15 5.41.160, and 5.41.170 of the Lincoln Municipal Code as hitherto existing be and the same are  
16 hereby repealed.

17 Section 36. That this ordinance shall take effect and be in force from and after its  
18 passage and publication according to law.

Introduced by:  
\_\_\_\_\_

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Approved this \_\_\_ day of \_\_\_\_\_, 2006:  
\_\_\_\_\_  
Mayor